

Message Text

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ACTION EA-12

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TAGS: SHUM, RP

SUBJECT: AQUINO CASE: SOLICITOR GENERAL COMMENTS

1. SUMMARY: GOP SOLICITORY GENERAL TOLD PRESS NOVEMBER 30 THAT US STATE DEPARTMENT COMMENT ON AQUINO CASE WAS "REGRETTABLE." HE ADDED THAT AQUINO'S DEATH SENTENCE IS ONLY "RECOMMENDATORY," SINCE MILITARY TRIBUNAL IS PART OF EXECUTIVE BOARD RATHER THAN JUDICIAL BRANCH. HE DENIED MARCOS HAD ORDERED REOPENING OF TRIAL IN RESPONSE TO FOREIGN PRESSURE. MEANWHILE, DEFENSE SECRETARY ENRILE OFFICIALLY ORDERED THE TRIAL REOPENED. THE STATE DEPARTMENT'S COMMENT CONTINUED TO REVERBERATE THROUGH THE EDITORIAL PAGES OF MANILA'S DAILIES. END SUMMARY.

2. SPEAKING BEFORE FOREIGN CORRESPONDENTS ASSOCIATION NOVEMBER 30, GOP SOLICITOR GENERAL MENDOZA SAID, "IT WAS REGRETTABLE THAT THE STATE DEPARTMENT SHOUD HAVE EXPRESSED ITS VIEWS" ON THE AQUINO CONVICTION. "I DON'T THINK THIS IS ITS CONCERN," MENDOZA ALSO PROVIDED HIS INTERPRETATION OF THE STATE OF PLAY. HE SAID THAT DECISIONS OF MILITARY TRIBUNALS "IN A VERY REAL SENSE ARE RECOMMENDATORY," SINCE SENTENCES CANNOT BE CARRIED OUT UNTIL THE CASE HAS BEEN REVIEWED BY HIGHER AUTHORITY. ACCORDING TO TIMES JOURNAL ACCOUNT, "MENDOZA SAID THAT MILITARY COMMISSIONS ARE NOT LIMITED OFFICIAL USE

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PART OF THE JUDICIAL SYSTEM, BUT ARE PART OF THE EXECUTIVE DEPARTMENT HEADED BY THE PRESIDENT HIMSELF. MILITARY TRIBUNALS ARE CONVENED BY THE PRESIDENT, IN HIS CAPACITY OF COMMANDER-IN-CHIEF OF THE ARMED FORCES. AS THE CONVENING AUTHORITY, MENDOZA EXPLAINED, THE PRESIDENT HAS THE POWER TO REVERSE A VERDICT OF GUILTY, BUT NOT A VERDICT OF ACQUITTAL. REMANDING THE CASE TO THE MILITARY COMMISSION

WAS BETTER, MENDOZA INDICATED, THAN BRINGING IT BEFORE A MILITARY REVIEW BOARD (NOTE: PRESUMABLY HE MEANS THE COURT OF MILITARY APPEALS ESTABLISHED UNDER PD 1199) BECAUSE THE CREATION OF SUCH A REVIEW BOARD WOULD HAVE TAKEN TIME, WHILE THE TRANSFER OF THE CASE TO A CIVILIAN COURT WOULD HAVE CREATED FORMIDABLE PROBLEMS. BESIDES, MILITARY COURTS HAVE EXCLUSIVE JURISDICTION OVER SUBVERSION AND ILLEGAL POSSESSION OF FIREARMS." MENDOZA ADDED THAT REOPENING THE AQUINO TRIAL WAS NOT IN RESPONSE TO FOREIGN COMMENTS: "IF THE GOVERNMENT WANTED A FAVORABLE REACTION, IT WOULD HAVE RELEASED AQUINO A LONG TIME AGO OR TRANSFERRED HIS CASE TO A CIVILIAN COURT."

3. MEANWHILE, DEFENSE SECRETARY ENRILE ISSUED IMPLEMENTING ORDERS TO REOPEN THE AQUINO CASE "STRICTLY FOR THE PURPOSE OF RECEIVING SUCH ARGUMENTS, AS WELL AS SUCH OTHER EVIDENCE AS AQUINO AND BUSCAYNO, AS WELL AS OTHER CO-ACCUSED SIMILARLY SITUATED, MAY WISH TO PRESENT."

4. EDITORIAL COMMENT CONTINUES. DAILY EXPRESS EDITORIAL DECEMBER 1: "WHAT OBVIOUSLY ESCAPES THE STATE DEPARTMENT... IS THAT AQUINO AND OTHER PRISONERS SIMILARLY SITUATED ARE BEING TRIED FOR COMMON CRIMES. ... THE DISPOSITION OF AQUINO'S CASE IS THUS AN INTERNAL MATTER NO COUNTRY, INCLUDING THE NATION'S ERSTWHILE COLONIZER, CAN POKE ITS FINGERS INTO. ... THE AMERICAN PRESSURE CAMPAIGN IS LIMITED OFFICIAL USE

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APPARENTLY RIDING ON THE PRESUMPTION THAT THE CRIMES BEING IMPUTED TO A FORMER SENATOR ARE POLITICAL IN NATURE OR THAT AQUINO IS BEING UNJUSTLY DETAINED, CHARGED AND SENTENCED TO DEATH BECAUSE HE WAS A LEADING MEMBER OF THE POLITICAL OPPOSITION BEFORE MARTIAL LAW. ... IF EVER THE PENALTY OF DEATH BY MUSKETRY IS AFFIRMED OR LESSER PUNISHMENT IS METED AND EXECUTED, IT SHALL BE BECAUSE THE ACCUSED HAD BEEN FOUND GUILTY OF SERIOUS CRIMES PUNISHABLE UNDER PHILIPPINE LAWS, AND NOT FOR ANY OTHER REASONS."

5. THE TIMES JOURNAL EDITORIAL: "SO FAR, WE ARE NOT AWARE OF ANY PRESSURE BEING EXERTED BY THE U.S. GOVERNMENT IN THE CASE, AND WHAT IS MORE, WE DO NOT THINK IT RIGHT FOR THE UNITED STATES OR ANY OTHER FOREIGN COUNTRY TO TAKE SUCH ACTION WHICH CLEARLY WOULD BE MEDDLING IN OUR INTERNAL AFFAIRS."

6. GRANADA IN TIMES JOURNAL: "DIDN'T THE U.S. STATE DEPARTMENT OVERREACT WHEN IT EXPRESSED GRAVE CONCERN...? THE STATE DEPARTMENT OFFICIALLY EXPRESSES CONCERN OFTEN ONLY ON ISSUES VITAL TO AMERICAN INTERESTS. SO THAT WHAT DOES THIS MAKE OF AQUINO? AN INSTRUMENT OF U.S. INTERESTS? ... THE IMPLICATION, WHICH IS CERTAINLY

UNJUST TO AQUINO, IS THAT THE AMERICANS ARE CONCERNED
OVER HIM BECAUSE HE IS THEIR BOY. ... AQUINO'S POLITICS
AND NOT HIS INNOCENCE IS THE INSPIRATION OF THEIR
CONCERN, IN OTHER WORDS."

7. VALENCIA IN DAILY EXPRESS: "PRESIDENT MARCOS REAFFIRMED
THE NEW SOCIETY'S STOUT ADHERENCE TO NORMAL LEGAL PROCESS.
THE ACTION UNDERScoreD THE FACT THAT COMMENTS ON THE
VERDICT OF CONVICTION WERE PREMATURE. ... CLEMENCY
FOR AQUINO IS VERY FAR FROM BEING NECESSARY. WHEN THE
TIME COMES FOR IT, THERE WILL BE TIME ENOUGH TO PLEAD.
... MY OWN PREDICTION IS THAT AQUINO WILL DIE IN BED AND
NOT FROM BULLETS FROM A FIRING SQUAD."

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8. E. AGUILAR CRUZ ON TIMES JOURNAL FRONT PAGE: "TO
INTERESTED OBSERVERS IN WASHINGTON OR NEW YORK
IT MAY WELL HAVE BEEN EXPECTED THAT THE MILITARY'S COURT'S
DECISION HAD ELECTRIFIED US HERE. ... IT WOULD TAKE
MORE THAN A DEATH SENTENCE THAT NO ONE BELIEVES WILL BE
CARRIED OUT TO THROW THE NATION INTO A STATE OF EXCITEMENT.
AT THE PRESENT STAGE, NOTHING SHORT OF EXONERATION COULD
HAVE AROUSED ANY REAL EXCITEMENT. ... AS THIS IS
WRITTEN, IT IS IMPOSSIBLE TO SAY WHETHER THE RETRIAL
WOULD ALTER THE COURSE OF EVENTS FORESEEN EARLIER, NAMELY,
REVIEW, APPEAL, AND RESCUE BY REVERSAL OR PARDON. FOR
THE REOPENING OF THE CASE TO BE MEANINGFUL THE DEFENDANT
WILL HAVE TO BREAK HIS REFUSAL TO DEFEND HIMSELF BEFORE A
MILITARY COURT. OTHERWISE THE CASE MAY DRAG SO MUCH LONGER
THAT THE PUBLIC MAY EVENTUALLY LOSE INTEREST, IF IT HAS NOT
ALREADY."
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